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8 **UNITED STATES DISTRICT COURT**  
9 **SOUTHERN DISTRICT OF CALIFORNIA**  
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11 GEORGE SHARP,

12 Plaintiff,

13 v.

14 ARENA PHARMACEUTICALS, INC., et  
al.,

15 Defendants.  
16

Case No. 10cv2111 BTM(BLM)

**ORDER DENYING MOTION FOR  
RECONSIDERATION**

17 Plaintiff George Sharp has filed a motion for reconsideration of the Court's Order filed  
18 on February 17, 2011, in which the Court held that it would retain supplemental jurisdiction  
19 over Plaintiff's state claims. For the reasons discussed below, Plaintiff's motion for  
20 reconsideration is **DENIED**.

21 Under Rule 54(b), any interlocutory order "is subject to revision at any time before the  
22 entry of judgment adjudicating all the claims and the rights and liabilities of all the parties."  
23 Generally, reconsideration is deemed appropriate if the district court (1) is presented with  
24 newly discovered evidence; (2) committed clear error or the initial decision was manifestly  
25 unjust; or (3) if there is an intervening change in controlling law. School Dist. No. J,  
26 Multnomah County, Oregon v. AC & S, Inc., 5 F.3d 1255, 1263 (9th Cir. 1993).

27 Plaintiff contends that the Court's decision was incorrect and "manifestly unjust."  
28 Plaintiff argues that contrary to the Court's conclusion, judicial economy is best served by

1 remanding this case because “it can be assumed that future cases will be filed in State court  
2 which allege similar, if not the exact, causes of action alleged in this Plaintiff’s amended  
3 complaint.” The Court declines to speculate regarding state court lawsuits that may be filed  
4 in the future. The Court considers the lawsuits that are before it, and remains convinced that  
5 coordinated discovery and pretrial proceedings in Plaintiff’s case and the Class Action cases  
6 would promote judicial economy and the convenience of the parties.

7 Plaintiff also argues that if he is forced to litigate his claims in federal court, the  
8 prosecution of his claims will be unjustly delayed. Again there is no certainty that his case  
9 would proceed much more quickly in state court. As mentioned previously, Defendants could  
10 bring a motion to stay state court discovery under Section 101(b)(2) of the Securities  
11 Litigation Uniform Standards Act, 15 U.S.C. § 78u-4(b)(3)(D), which, if granted, would halt  
12 the progress of the state litigation.

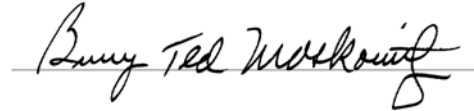
13 Finally, Plaintiff argues that he fears that Lead Counsel in the class action cases might  
14 not act in his best interests, unjustly compelling him to retain counsel to represent his own  
15 interests and imposing a financial burden on him. The Court understands Plaintiff’s fear that  
16 he will lose control over his case, but does not believe that Plaintiff’s fear is well-founded.  
17 Even if Plaintiff’s case is consolidated with the class actions for purposes of coordination of  
18 discovery and pretrial proceedings, Plaintiff will not lose his procedural or substantive rights  
19 or cede authority over his claims. As explained by the United States Supreme Court,  
20 consolidation “does not merge the suits in to a single cause, or change the rights of the  
21 parties, or make those who are parties in one suit parties in another.” Johnson v. Manhattan  
22 Ry. Co., 289 U.S. 479, 496-497 (1933). Plaintiff will be free to file his own motions on the  
23 merits of his claims and will not be bound by settlement negotiations conducted in the Class  
24 Action cases. See Discount Bank and Trust Co. v. Salomon Inc., 141 F.R.D. 42 (S.D.N.Y.  
25 1992). In addition, Plaintiff will always have the right to opt out of any class that is certified  
26 and pursue his own claims.

27 Whether Plaintiff feels compelled to hire an attorney is not within the Court’s control  
28 and is not a basis for reconsideration of the Court’s prior Order. Plaintiff has not established

1 that the Court's decision to retain jurisdiction over his claims was clearly erroneous or  
2 manifestly unjust. Therefore, Plaintiff's motion for reconsideration is **DENIED**.

3 **IT IS SO ORDERED.**

4 DATED: May 9, 2011

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7 Honorable Barry Ted Moskowitz  
8 United States District Judge  
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